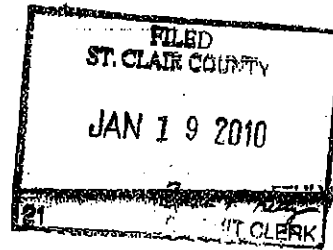


IN THE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS



**RUSSELL SPARGER and
JUDITH SPARGER,**

Plaintiffs,

VS.

WASHINGTON UNIVERSITY and
BARNES JEWISH HOSPITAL,

Defendants.

No. 10-4-0022

COMPLAINT AND DEMAND FOR JURY TRIAL

COUNT I

Comes now the plaintiff, RUSSELL SPARGER, by and through his attorneys, COOK, YSURSA, BARTHOLOMEW, BRAUER & SHEVLIN, LTD., and JOSEPH A. BARTHOLOMEW, and for Count I of his Complaint against the defendant, WASHINGTON UNIVERSITY, states:

1. That at all times mentioned herein the Plaintiffs were citizens and resident of O'Fallon, St. Clair County, Illinois.
2. That on or about July, 2007 through March 2008, and continuing through the present date, and at other times relevant, Defendant, WASHINGTON UNIVERSITY, was a Missouri corporation authorized to do business in the State of Illinois and in fact doing business in St. Clair County, Illinois, and provided medical services to plaintiff, Russell Sparger when he came under their care for dialysis from July, 2007 through the present.

EXHIBIT

A

3. That during the course of Russell Sparger's treatment for dialysis he was prescribed ototoxic antibiotics including gentamycin.

4. That at various times the Plaintiff, RUSSELL SPARGER, came under the care of the physicians in the department of neurology and the department of otolaryngology for balance problems.

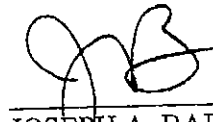
5. That the Defendant, WASHINGTON UNIVERSITY, by and through its agents, staff and employees, failed to apply the knowledge and use the skill and care ordinarily used by a reasonably well-qualified health care providers and therefore was professionally negligent in the following manner:

- (a) Negligently and carelessly prescribed ototoxic drugs to a patient with renal insufficiency;
- (b) Negligently and carelessly continued to prescribe ototoxic drugs to a patient with renal insufficiency who had complained of loss of balance; and
- (c) negligently and carelessly failed to diagnose the patient's balance problem was related to ototoxic antibiotics.

6. As a direct and proximate result of one or more of the Defendant's negligent acts or omissions the Plaintiff, RUSSELL SPARGER, suffered severe and permanently disabling injuries, more specifically to-wit: the Plaintiff suffered bilateral vestibular loss and loss of balance and injury to his body as a whole; Plaintiff has suffered physical pain, mental suffering, mental anguish; the Plaintiff has been permanently prevented from attending his usual affairs and duties; the Plaintiff has incurred and will become liable for large sums of money in hospital, medical and related expenses and will become liable for additional sums in the future, all to the damage to the Plaintiff in a substantial amount.

7. That the Plaintiff, RUSSELL SPARGER, did not discover that his bilateral vestibular loss was caused by ototoxic exposure from antibiotics prescribed by the physicians employed by the defendants herein until July, 2008.

WHEREFORE, plaintiff, RUSSELL SPARGER, demands judgment against the defendant, WASHINGTON UNIVERSITY, in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs of this action.



JOSEPH A. BARTHOLOMEW
Attorney for Plaintiff
IL BAR #6187925

COOK, YSURSA, BARTHOLOMEW,
BRAUER & SHEVLIN, LTD.
12 West Lincoln Street
Belleville, Illinois 62220
(618) 235-3500

COUNT II

Comes now the plaintiff, RUSSELL SPARGER, by and through his attorneys, COOK, YSURSA, BARTHOLOMEW, BRAUER & SHEVLIN, LTD., and JOSEPH A. BARTHOLOMEW, and for Count II of his Complaint against the defendant, BARNES JEWISH HOSPITAL, states:

1. That at all times mentioned herein the Plaintiffs were citizens and resident of O'Fallon, St. Clair County, Illinois.

2. That on or about July, 2007 through March, 2008, and continuing through the present date, and at other times relevant, Defendant, BARNES JEWISH HOSPITAL, was a Missouri corporation authorized to do business in the State of Illinois and in fact doing business in St. Clair County, Illinois, and provided medical services to plaintiff, Russell Sparger when he came under

their care for dialysis from July, 2007 through the present.

3. That during the course of Russell Sparger's treatment for dialysis he was prescribed ototoxic antibiotics including gentamycin.

4. That at various times the Plaintiff, RUSSELL SPARGER, came under the care of the physicians in the department of neurology and the department of otolaryngology for balance problems.


5. That the Defendant, BARNES JEWISH HOSPITAL, by and through its agents, staff and employees, failed to apply the knowledge and use the skill and care ordinarily used by a reasonably well-qualified health care providers and therefore was professionally negligent in the following manner:

- (a) Negligently and carelessly prescribed ototoxic drugs to a patient with renal insufficiency;
- (b) Negligently and carelessly continued to prescribe ototoxic drugs to a patient with renal insufficiency who had complained of loss of balance; and
- (c) negligently and carelessly failed to diagnose the patient's balance problem was related to ototoxic antibiotics.

6. As a direct and proximate result of one or more of the Defendant's negligent acts or omissions the Plaintiff, RUSSELL SPARGER, suffered severe and permanently disabling injuries, more specifically to-wit: the Plaintiff suffered bilateral vestibular loss and loss of balance and injury to his body as a whole; Plaintiff has suffered physical pain, mental suffering, mental anguish; the Plaintiff has been permanently prevented from attending his usual affairs and duties; the Plaintiff has incurred and will become liable for large sums of money in hospital, medical and related expenses and will become liable for additional sums in the future, all to the damage to the Plaintiff in a substantial amount.

7. That the Plaintiff, RUSSELL SPARGER, did not discover that his bilateral vestibular loss was caused by ototoxic exposure from antibiotics prescribed by the physicians employed by the defendants herein until July, 2008.

WHEREFORE, plaintiff, RUSSELL SPARGER, demands judgment against the defendant, BARNES JEWISH HOSPITAL, in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs of this action.



JOSEPH A. BARTHOLOMEW
Attorney for Plaintiff
IL BAR #6187925

COOK, YSURSA, BARTHOLOMEW,
BRAUER & SHEVLIN, LTD.
12 West Lincoln Street
Belleville, Illinois 62220
(618) 235-3500

COUNT III

Comes now the plaintiff, JUDITH SPARGER, by and through her attorneys, COOK, YSURSA, BARTHOLOMEW, BRAUER & SHEVLIN, LTD., and JOSEPH A. BARTHOLOMEW, and for Count III of her Complaint against the defendant, WASHINGTON UNIVERSITY, states:

1. That at all times mentioned herein the Plaintiffs were citizens and resident of O'Fallon, St. Clair County, Illinois.

2. That on or about July, 2007 through March, 2008, and continuing through the present date, and at other times relevant, Defendant, WASHINGTON UNIVERSITY, was a Missouri corporation authorized to do business in the State of Illinois and in fact doing business in St. Clair County, Illinois, and provided medical services to plaintiff, Russell Sparger when he came under

their care for dialysis from July, 2007 through the present.

3. That during the course of Russell Sparger's treatment for dialysis he was prescribed ototoxic antibiotics including gentamycin.

4. That at various times the Plaintiff, RUSSELL SPARGER, came under the care of the physicians in the department of neurology and the department of otolaryngology for balance problems.

5. That at all times mentioned herein the Plaintiffs, RUSSELL SPARGER and JUDITH SPARGER, were married.

6. That the Defendant, WASHINGTON UNIVERSITY, by and through its agents, staff and employees, failed to apply the knowledge and use the skill and care ordinarily used by a reasonably well-qualified health care providers and therefore was professionally negligent in the following manner:

- (a) Negligently and carelessly prescribed ototoxic drugs to a patient with renal insufficiency;
- (b) Negligently and carelessly continued to prescribe ototoxic drugs to a patient with renal insufficiency who had complained of loss of balance; and
- (c) negligently and carelessly failed to diagnose the patient's balance problem was related to ototoxic antibiotics.

7. As a direct and proximate result of one or more of the Defendant's negligent acts or omissions the Plaintiff, RUSSELL SPARGER, suffered severe and permanently disabling injuries, more specifically to-wit: the Plaintiff suffered bilateral vestibular loss and loss of balance and injury to his body as a whole; Plaintiff has suffered physical pain, mental suffering, mental anguish; and Plaintiff, Judith Sparger, suffers loss of consortium due to her husband's injuries.

8. That the Plaintiff, RUSSELL SPARGER, did not discover that his bilateral vestibular loss was caused by ototoxic exposure from antibiotics prescribed by the physicians employed by the defendants herein until July, 2008.

WHEREFORE, plaintiff, JUDITH SPARGER, demands judgment against the defendant, WASHINGTON UNIVERSITY, in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs of this action.



JOSEPH A. BARTHOLOMEW
Attorney for Plaintiff
IL BAR #6187925

COOK, YSURSA, BARTHOLOMEW,
BRAUER & SHEVLIN, LTD.
12 West Lincoln Street
Belleville, Illinois 62220
(618) 235-3500

COUNT IV

Comes now the plaintiff, JUDITH SPARGER, by and through her attorneys, COOK, YSURSA, BARTHOLOMEW, BRAUER & SHEVLIN, LTD., and JOSEPH A. BARTHOLOMEW, and for Count IV of her Complaint against the defendant, BARNES JEWISH HOSPITAL, states:

1. That at all times mentioned herein the Plaintiffs were citizens and resident of O'Fallon, St. Clair County, Illinois.

2. That on or about July, 2007 through March, 2008, and continuing through the present date, and at other times relevant, Defendant, BARNES JEWISH HOSPITAL, was a Missouri corporation authorized to do business in the State of Illinois and in fact doing business in St. Clair County, Illinois, and provided medical services to plaintiff, Russell Sparger when he came under

their care for dialysis from July, 2007 through the present.

3. That during the course of Russell Sparger's treatment for dialysis he was prescribed ototoxic antibiotics including gentamycin.

4. That at various times the Plaintiff, RUSSELL SPARGER, came under the care of the physicians in the department of neurology and the department of otolaryngology for balance problems.

5. That at all times mentioned herein the Plaintiffs, RUSSELL SPARGER and JUDITH SPARGER, were married.

6. That the Defendant, BARNES JEWISH HOSPITAL, by and through its agents, staff and employees, failed to apply the knowledge and use the skill and care ordinarily used by a reasonably well-qualified health care providers and therefore was professionally negligent in the following manner:

- (a) Negligently and carelessly prescribed ototoxic drugs to a patient with renal insufficiency;
- (b) Negligently and carelessly continued to prescribe ototoxic drugs to a patient with renal insufficiency who had complained of loss of balance; and
- (c) negligently and carelessly failed to diagnose the patient's balance problem was related to ototoxic antibiotics.

7. As a direct and proximate result of one or more of the Defendant's negligent acts or omissions the Plaintiff, RUSSELL SPARGER, suffered severe and permanently disabling injuries, more specifically to-wit: the Plaintiff suffered bilateral vestibular loss and loss of balance and injury to his body as a whole; Plaintiff has suffered physical pain, mental suffering, mental anguish; and Plaintiff, Judith Sparger, suffers loss of consortium due to her husband's injuries.

8. That the Plaintiff, RUSSELL SPARGER, did not discover that his bilateral vestibular loss was caused by ototoxic exposure from antibiotics prescribed by the physicians employed by the defendants herein until July, 2008.

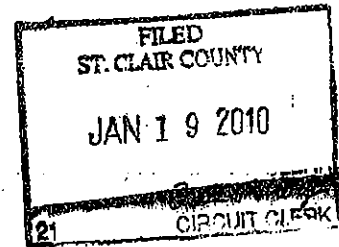
WHEREFORE, plaintiff, JUDITH SPARGER, demands judgment against the defendant, BARNES JEWISH HOSPITAL, in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs of this action.



JOSEPH A. BARTHOLOMEW
Attorney for Plaintiff
IL BAR #6187925

COOK, YSURSA, BARTHOLOMEW,
BRAUER & SHEVLIN, LTD.
12 West Lincoln Street
Belleville, Illinois 62220
(618) 235-3500

IN THE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS



RUSSELL SPARGER and
JUDITH SPARGER,

Plaintiffs,

vs.

WASHINGTON UNIVERSITY and
BARNES JEWISH HOSPITAL,

Defendants.

No. *D-1-0022*

A F F I D A V I T


JOSEPH A. BARTHOLOMEW, being first duly sworn upon his oath,
deposes and states as follows:

1. That he is the attorney for the Plaintiffs, RUSSELL
SPARGER and JUDITH SPARGER, Deceased.

2. That the conduct complained of herein occurred on or about
July, 2007 through March, 2008.

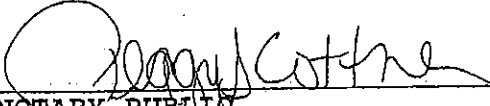
3. That he was unable to obtain a consultation required by
Statute because a "Statute of Limitations" would impair the action
and the consultation required could not be obtained before the
expiration of the Statute of Limitations.

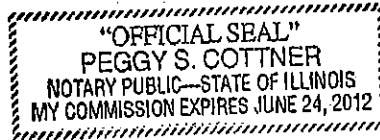
4. That he has investigated this matter and believes there is
a reasonable and meritorious cause of action.


JOSEPH A. BARTHOLOMEW

SUBSCRIBED AND SWORN, to before me, a Notary Public, this

14th of January, 2010.


NOTARY PUBLIC



State of Illinois)
County of St. Clair) S.S.

Case Number 10-2-1122Amount Claimed In excess of \$50,000.00 +

RUSSELL SPARGER and
JUDITH SPARGER

WASHINGTON UNIVERSITY and
BARNES JEWISH HOSPITAL

VS

Plaintiff(s)

Defendant(s)

*Rec'd in Risk
management 1/29/10
11:03 am
JC*

Classification Prefix _____ Code _____ Nature of Action _____ Code _____

TO THE SHERIFF: SERVE THIS DEFENDANT AT:

Pltf. Atty. Joseph A. Bartholomew Code _____
Address 12 W. Lincoln St.
City Belleville, IL 62220 Phone 235-3500
Add. Pltf. Atty. _____ Code _____

NAME Washington University
~~C/O any officer, agent or employee~~
660 S. Euclid
ADDRESS St. Louis, MO 63110 *Mag O'Neill*
c/o Office of Risk Management
CITY & STATE 4525 Scott Avenue
3rd Floor, St. 3433
St. Louis, MO 63110

SUMMONS COPY

To the above named defendant(s).

☐ A. You are hereby summoned and required to appear before this court at
(court location) _____ at _____ M. On _____ 20____
to answer the complaint in this case, a copy of which is hereto attached. If you fail to do so, a judgment by
default may be taken against you for the relief asked in the complaint.

☐ B. You are hereby summoned and required to file an answer in this case or otherwise file your appear-
ance, in the office of the Clerk of this court, within 30 days after service of this summons, exclusive of the day
of service. If you fail to do so, judgment or decree by default may be taken against you for the relief prayed in
the complaint.

TO THE OFFICER:

This summons must be returned by the officer or other person to whom it was given for service, with
indorsement thereon of service and fees if any, immediately after service. In the event that paragraph A of this
summons is applicable this summons may not be served less than three days before the day of appearance. If
service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

WITNESS, J. M. Keeney 20 10

Brendan G. Keeney
Clerk of Court

BY DEPUTY: G. Manning

DATE OF SERVICE: _____, 20

(To be inserted by officer on copy left with defendant or other person)

SEAL

NOTICE TO DEFENDANT IN SMALL CLAIMS UNDER \$15,000 - - SEE REVERSE SIDE

CC-MR-1